weighs everything in the balances of worldly policy, and ends most generally, in the practical adoption of the vile maxim, 'that the end sanctifies the means.' If it be true, as he has said, who, more than any mere man, before or since his day, understood the depths of human character, that one even may,

> 'By telling of it,
> Make such a sinner of his memory;
> To credit his own lie:'—

be careful never to speak or act, without regard to the *morale* of your words or actions. The habit may and will grow to be a second nature. * * * * * * *

"There is no class of men among whom moral delinquency is more marked and disgraceful than among lawyers. Among merchants, so many honest men become involved through misfortune, that the rogue may hope to take shelter in the crowd, and be screened from observation. Not so the lawyer. If he continues to seek business, he must find his employment in lower and still lower grades; and will soon come to verify and illustrate the remark of Lord Bolingbroke, that 'the profession of the law, in its nature the noblest and most beneficial to mankind, is in its abuse and abasement, the most sordid and pernicious.' "

JUDGMENTS OF OTHER STATES.

The following notice of some recent cases is offered as a supplement to Judge Hare's valuable note to *Mills* vs. *Duryee* and *McElmoyle* vs. *Cohen*, in the second volume of the American Lead-in Cases, p. 774.

The difficulty anticipated by Mr. Justice Johnson, in his dissenting opinion, in the case of *Mills* vs. *Duryee*, 7 Cranch, 481, has lately been presented to the Supreme Court of the United States, and received a solution in accordance with his views.

In *D'Arcy* vs. *Ketchum*, 11 Howard, U. S. R., 165 (decided in 1850), it was held that a judgment against joint debtors, rendered

in the State, of New York, upon service of process on one only of the joint debtors, was of no effect, in the State of Louisiana, against the debtor not served, although the statute of New York provided that in New York it should bind the joint property of the defendants, and be *prima facie* evidence of the indebtedness of the defendants not served. The court admit that such was the effect of the record in New York, but they deny that the Constitution and the Act of Congress, of May 2, 1790, as construed in the case of *Mills* vs. *Duryee*, extended to such a judgment as the international law at that time refused to recognize; (as, for example, a judgment without service of process or appearance) or declared a new rule, enabling one state to enact laws for other states, by giving a new effect to such judgments.

Yet it is to be remembered, that in *McElmoyle* vs. *Cohen*, 13 Peters, 312, it had been settled that a state might, by statute, regulate and abridge the limitation of time for bringing suit upon a judgment of another state, and in every way completely control *the remedy*.

The interpretation which Mr. Justice Johnson feared might be deduced from the judgment in *Mills* vs. *Duryee*, has been contended for in most of the states, though generally without success. Indeed, in some cases, it would seem to have been supposed that a judgment was made, by the Act of Congress, of *greater* force in other states than in the state where it was rendered, notwithstanding the express declaration of the Supreme Court, in *McElmoyle* vs. *Cohen*, 13 Peters, 312, that such judgments "are conclusive upon the defendant in every state, *except for such causes as would be sufficient to set aside the judgments in the courts of the states in which it was rendered.*"

The Supreme Court of New York, as early as 1818, gave the proper construction to the decision in *Mills* vs. *Duryee*, in *Borden* vs. *Fitch*, 15 J. R. 143, in which it was held that a record of a decree of divorce, obtained in Vermont, might be avoided by proof that the court had no jurisdiction of the person of the defendant; and might also be impeached as obtained by *fraud*, because that would impeach the judgment in Vermont (citing *Fermor's case*, 3

Rep., 77). The elaborate opinion of Thompson, J., in this case, will be found to have anticipated the decision in *D'Arcy* vs. *Ketchum*. Story Confl. Laws, § 609, also instances *fraud* as a defence, not excluded by the Constitution and Act of Congress.

An interesting case has been determined in Connecticut (*Pearce* vs. *Olney*, 20 Conn. R. 544), which arose upon a bill in equity, filed by Pearce to restrain Olney from suing upon a judgment obtained in the Superior Court of the City of New York, upon personal service of process upon Pearce, but which he was induced not to defend, upon the misrepresentation of Olney, that the suit was commenced by mistake against him instead of against his principal (the real person liable), and should be discontinued.

It was earnestly contended that no relief could be given in Connecticut against the New York judgment without a violation of the constitution and the Act of Congress; but the Supreme Court of Errors of Connecticut held, that it could give the same relief that a Court of Equity could give in New York against the judgment as obtained by fraud and imposition; and decreed that the judgment was so obtained and perpetually enjoined any action upon it.

The New York judgment was afterwards sued in New York, and the case is reported as *Dobson* vs. *Pearce*, 1 Duer Superior Court Reports, p. 143. The defendant, (under the New York Code, allowing equitable as well as legal claims and defences in the same action,) pleaded the Connecticut decree in bar. And the court held it was a bar as proving that the judgment had been fraudulently recovered without further evidence. Mr. Justice Paine, one of the judges, dissented on the grounds that the Connecticut decree ought to be construed only as enjoining suit in Connecticut; also that the defence ought to have been made by a cross suit to avoid the judgment; and lastly, on the notion that the constitution and Act of Congress had been disregarded by the Connecticut Court, his opinion being founded on the assumption that the Act of Congress gave a force to the judgment in Connecticut, which it had not in New York, or rather that all remedy was confined to the court of the State where the judgment was rendered, which amounts

to saying in most cases that there is to be no remedy whatever.

He also says that the Connecticut decree might be overhauled in the same manner; which is true when properly understood, *i. e.* it might be, *if obtained by a like fraud.*[1]

D.

RECENT AMERICAN DECISIONS.

Supreme Court of Pennsylvania, at Nisi Prius, December, 1854.[2]

WILLIAM THOMAS *vs.* JAMES CROSSIN, ET AL.

1. The 7th section of the Act of Congress, of 2d March, 1833, commonly called "The Force Bill," which authorizes the writ of *habeas corpus* to be issued by the courts of the United States, under certain circumstances, for the protection of officers, and others acting with them, in execution of the laws of the United States, is to be confined in its application to cases, where there has been an avowed purpose, by some authority or law *of a state*, to disregard an act of Congress, and to imprison or otherwise punish the officers of the United States for enforcing it; and operates, moreover, only in cases where such purpose appears on *the face of the proceedings.* Where a *habeas corpus* has been issued in pursuance of the statute, by a United States Court, it has no right to go behind the return to the writ; and if it does, and discharges the relator, upon evidence taken at the hearing, such discharge is inoperative, and will be disregarded by a state court.
2. The marshal and deputy marshals of the C. C. for the Eastern District of Pennsylvania, were arrested under a *capias*, in a civil action of assault and battery, for abuse of power, brought in the Supreme Court of Pennsylvania. They took out a *habeas corpus* to the Circuit Court. On the hearing, evidence as to the real cause of action in the suit was entered into, and the relators discharged. The sheriff returned these facts to the *capias.* An attachment was applied for by the plaintiff against the sheriff, for not bringing in the bodies of the defendants. The court held that the discharge by the United States Court was invalid, but refused the attachment under the circumstances, the plaintiff having unneccesarily delayed his application. It was decided, however, that the defendants might be considered as discharged on common bail, and that the plaintiff might proceed regularly in his action.

[1] Since the above article was written, the Court of Appeals of the State of New York have *affirmed* the judgment of the Superior Court in *Dobson* vs. *Pearce* (December Term, 1854,) upon Dobson's Appeal. D.

[2] Before LEWIS, C. J., and WOODWARD, J.